

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SIPPEL DEVELOPMENT CO., INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	2:05-cv-46
	)	
WESTERN SURETY COMPANY,	)	Judge Terrence F. McVerry
	)	Magistrate Judge Amy Reynolds Hay
Defendant.	)	

**ORDER OF COURT**

AND NOW, this 17th day of March, 2008, after the Plaintiff, Sippel Development Co., Inc., filed an action as above-captioned, and after cross motions for summary judgment were filed, a Report and Recommendation was filed by the United States Magistrate Judge, Dkt. [100], and following Objections filed to the Report and Recommendation by both parties, see Dkt. [101] and [102], which are found to be without merit, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that Plaintiff's Motion for Partial Summary Judgment, Dkt. [75] is granted in part and denied in part. The motion is GRANTED in favor of Plaintiff and against Defendant on Plaintiff's claim under Change Order No. 2 for \$828,572.47, together with pre-judgment interest. The motion is DENIED in all other respects.

IT IS FURTHER ORDERED that the Defendant's Motion for Summary Judgment, Dkt. [79], is granted in part and denied in part. The motion is GRANTED in favor of Defendant and against Plaintiff on Plaintiff's claims under Change Order Request No. 15 and for

consequential and/or statutory damages. The motion is denied in all other respects.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the parties desire to appeal from this Order they must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Court Judge

cc: Hon. Amy Reynolds Hay  
United States Magistrate Judge

Charles W. Robinson, Esquire  
Email: [cwr@kirbyelectricinc.com](mailto:cwr@kirbyelectricinc.com)

Joshua B. Levy, Esquire  
Email: [jlevy@milwlaw.com](mailto:jlevy@milwlaw.com)  
Peter G. Nychis, Esquire  
Email: [pgn@gmwpclaw.com](mailto:pgn@gmwpclaw.com)  
J. Michael McCague, Esquire  
Email: [jmm@gmwpclaw.com](mailto:jmm@gmwpclaw.com)